

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

KRISTI ANN LUNA-MICHAEL,

Plaintiff,

v.

COMMISSIONER OF SOCIAL SECURITY,

Defendant.

Case No. 1:21-cv-01083-SAB

ORDER RE: STIPULATION FOR
VOLUNTARY REMAND PURSUANT TO
42 U.S.C. § 405(G)

ORDER DISCHARGING ORDER TO
SHOW CAUSE

(ECF Nos. 9, 11, 12, 13)

On July 12, 2021, Plaintiff Kristi Ann Luna-Michael filed this action seeking judicial review of a final decision of the Commissioner of Social Security (“Commissioner”) denying an application for disability benefits pursuant to the Social Security Act. (ECF No. 1.) On April 1, 2022, the Court issued an order advising the parties of the lifting of the stay of action pursuant to General Order Number 644, which rescinded the Court’s temporary stay in Social Security Matters effective April 1, 2022, and provided an amended scheduling order. (ECF No. 8.) Pursuant to the amended scheduling order, Defendant was directed to electronically file the administrative record within 120 days of service of the Court’s order. (*Id.* at 2.) Thus, the deadline to file the administrative record was August 1, 2022. However, as of August 2, 2022, neither the administrative record, nor other filings, have been submitted.

1 On August 3, 2022, Defendant lodged the administrative record. (ECF No. 11.) On
2 August 4, 2022, Defendant filed a response to the order to show cause and the parties filed a
3 stipulation agreeing to a voluntary remand of this matter for further proceedings pursuant to the
4 fourth sentence of Section 205(g) of the Social Security Act, 42 U.S.C. 405(g). (ECF Nos. 12,
5 13.)

6 In her response to the order to show cause, counsel for Defendant proffers she was not
7 timely added as counsel of record due to an administrative oversight, which she sought to
8 correct as soon as alerted to the situation by the Court's order. (ECF No. 13.) Counsel also
9 proffers she has been diligently working with opposing counsel towards securing authority for
10 voluntary remand and resolution of the instant action, and was preparing to seek a stipulation to
11 extend the briefing deadlines; however, she learned on August 1, 2022, that her father had
12 fallen at home and was admitted to the hospital, and subsequently the ICU. As a result of this
13 disruption, counsel inadvertently failed to file the stipulation and therefore seeks a short nunc
14 pro tunc extension to file the administrative record. As the Court has noted, the administrative
15 record was filed on August 3, 2022, only one day after issuance of the Court's order to show
16 cause. As such, the Court finds counsel has more than sufficiently responded to the Court's
17 order and shall discharge the order to show cause.

18 Furthermore, pursuant to the terms of the stipulation, the Office of Hearing Operations
19 will remand the case to an administrative law judge ("ALJ") to further develop the record as
20 necessary, and issue a new decision. (ECF No. 12.) The parties further request that the Clerk
21 of the Court be directed to enter a final judgment in favor of Plaintiff and against Defendant,
22 reversing the final decision of the Commissioner. The Court finds good cause exists to grant
23 the parties' stipulated request.

24 Accordingly, IT IS HEREBY ORDERED that:

- 25 1. The Court's August 2, 2022 order to show cause (ECF No. 9) is DISCHARGED.
- 26 2. The above-captioned action is REMANDED to the Commissioner of Social
27 Security for further proceedings consistent with the terms of the stipulation for
28 remand;

3. Judgment is entered in favor of Plaintiff Kristi Ann Luna-Michael and against Defendant Commissioner of Social Security; and

4. The Clerk of the Court is directed to CLOSE this action.

IT IS SO ORDERED.

Dated: August 4, 2022

A handwritten signature in blue ink, appearing to read "Eugene A. Bae", is written over a horizontal line.

UNITED STATES MAGISTRATE JUDGE